

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

GERTRUDE E. STOVER

145 Woodside Drive

West Alexandria, OH 45381-9306

CASE NO.

COMPLAINT

vs.

FIDELITY INVESTMENTS

C/O FIDELITY BROKERAGE SERVICES LLC

Statutory Agent CT CORPORATION SYSTEM

4400 Easton Commons Way Suite 125

Columbus, OH 43219

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JUDGE \_\_\_\_\_

1. Plaintiff is a resident of West Alexandria, Montgomery County, Ohio and has been at all times relevant hereto.
2. Defendant is a foreign limited liability company doing business within the state of Ohio providing financial & investment services.
3. Jurisdiction is proper in this district because the Plaintiff and the Defendant have an investment account established for the benefit of the Plaintiff with brokerage services provided by the Defendant here in the State of Ohio, along with sufficient minimal contacts and are subject to service of process here in the State of Ohio.

4. Venue is proper before this Court pursuant to Title 28 USC Section 1332 because the Plaintiff is a citizen of the State of Ohio while the Defendant has registered as a foreign corporation to do business in the State of Ohio.

#### **FIRST CAUSE OF ACTION**

5. The Plaintiff was married to David Ross Stover who had an account with Parker-Hannifin Savings Plan which was held by Fidelity Investments with Two Hundred Forty-Seven Thousand One Hundred One Dollars and Seventy-One Cents (\$247,101.71) in said account.
6. David Ross Stover passed away on May 12, 2019, leaving the Plaintiff as the widow for beneficiary and surviving spouse rights in her deceased husband's Parker-Hannifin Savings Plan account that was qualified pursuant to Employee Retirement Income Security Act of 1974 (ERISA).
7. The Defendant paid to Plaintiff's account #xxx-635170 Two Hundred Forty-Seven Thousand One Hundred One Dollars and Seventy-One Cents (\$247,101.71) on June 30, 2019 as the beneficiary from her late husband's Parker-Hannifin Savings Plan account.
8. The Defendant then on or about April 30, 2021 without Plaintiff's consent or knowledge withdrew from her account #xxx-635170 Two Hundred Forty-Seven Thousand Two Hundred Sixteen Dollars and Twenty-Eight Cents (\$247,216.28).
9. The Defendant has failed to replace the funds inappropriately withdrawn.
10. The Plaintiff has demanded payment from the Defendant without any response on the status of the funds repayment in said account.
11. The Defendant has breached the terms of their brokerage contract involving the investment account (a copy of which is not in the possession of the Plaintiff).
12. Plaintiff demands replacement of the account funds in the amount of Two Hundred Forty-Seven Thousand Two Hundred Sixteen Dollars and Twenty-Eight Cents (\$247,216.28).

### **SECOND CAUSE OF ACTION**

13. The Plaintiff reiterates the allegations in paragraphs one (1) through twelve (12) above as if rewritten herein.
14. The Defendant has breached its fiduciary duty required under ERISA to the Plaintiff by taking funds from her account without her permission as well as failing to replace said funds after demand.
15. The Defendant has breached their duty of care, loyalty, and good faith owed to the Plaintiff.
16. Given Defendant's negligence concerning its breach of fiduciary duties, Plaintiff demands replacement of the account funds in the amount of Two Hundred Forty-Seven Thousand Two Hundred Sixteen Dollars and Twenty-Eight Cents (\$247,216.28).

### **THIRD CAUSE OF ACTION**

17. The Plaintiff reiterates the allegations in paragraphs one (1) through twelve (15) above as if rewritten herein.
18. The Defendant has defrauded the Plaintiff out of her funds.
19. As a direct and proximate result of Defendant's fraud by failing to account for the funds and/or replace them back in Plaintiff's account, or identify where the funds are being held, Defendant has caused damages to the Plaintiff in the amount of Two Hundred Forty-Seven Thousand Two Hundred Sixteen Dollars and Twenty-Eight Cents (\$247,216.28).

**WHEREFORE**, the Plaintiff prays for a judgment in the amount of Two Hundred Forty-Seven Thousand Two Hundred Sixteen Dollars and Twenty-Eight Cents (\$247,216.28) plus interest and costs of this action or in the alternative an Order directing the Defendant to distribute the funds required by law to her, with attorney fees, and interest from the date of withdrawal by the Defendant to date at the statutory amount, and such other relief as is just and proper.

Respectfully submitted,

/s/ Alfred Wm. Schneble III

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